

EXHIBIT N

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: . Case No. 09-50026-mg
. Chapter 11
.
MOTORS LIQUIDATION COMPANY, . (Jointly administered)
et al., f/k/a GENERAL .
MOTORS CORP., et al, . One Bowling Green
. New York, NY 10004
Debtors. .
. Tuesday, October 3, 2017
. 10:02 a.m.
.

TRANSCRIPT OF HEARING REGARDING "PLAINTIFFS' ENFORCEMENT
MOTION" AND THE "FOREBEARANCE AGREEMENT APPROVAL MOTION."
(CC: DOC NOS. 14092, 14093, 14095, 14114, 14115, 14117)
BEFORE THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY COURT JUDGE

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1 and Your Honor and Ms. Cabraser got into a little bit of a
2 discussion about whether there's a chicken and egg issue, and
3 Your Honor said I'm not sure that there is one. She said there
4 is one. There's certainly not a chicken and egg issue because
5 those have no right answer.

6 What we have here is really a cart before the horse
7 situation the way I see it because what Mr. Weisfelner admitted
8 -- and again, in his candor, which I really did appreciate --
9 to the Court is that this settlement -- purported settlement
10 agreement or purported deal with the GUC Trust was the product
11 of what? He said -- and I wrote it down -- "the collective
12 imagination of these very bright innovative plaintiffs'
13 counsel." I don't begrudge them for that. It is exactly the
14 case, but that doesn't make it --

15 THE COURT: That's how most complicated cases get
16 settled --

17 MR. KIRPALANI: That is true.

18 THE COURT: -- Mr. Kirpalani.

19 MR. KIRPALANI: That is true. And but for the
20 plaintiffs' counsel to take the position that, well, New GM,
21 they're not a party in interest, they shouldn't have any role
22 here, this is a purported deal between the plaintiffs and the
23 GUC Trust, I would --

24 THE COURT: They may be right. We're going to have
25 briefing on that.



1 MR. KIRPALANI: Yes. And I'm happy to brief that.
2 The way Mr. Weisfelner said that we're not a third-party
3 beneficiary, and I hope that's the rubric that the Court
4 adopts, because if that's the rubric, then certainly being the
5 third-party payor should be an equal balance in the scales of
6 justice.

7 THE COURT: New GM will be the beneficiary in my view
8 if the result, for hypothetically, is that economic loss claims
9 are resolved as part of the bankruptcy through the allowance of
10 late claims. And the economic loss claims other than truly
11 independent claims can't go forward in the district court.

12 I remember seeing some time ago a letter brief
13 probably from Kirkland that took the position with Judge Furman
14 that that would be the result of allowing late claims in the
15 bankruptcy, that if the basis for -- putting aside independent
16 claims -- the basis for the successor liability claims was they
17 were denied due process. They're not subject to the free and
18 clear sale provision.

19 And, you know, whether there are successful liability
20 claims is a matter of applicable non-bankruptcy law, but I
21 remember reading that in a letter. So I'm -- obviously, that's
22 probably not going to be my call at the end of the day anyway.
23 It's probably Judge Furman's, but that's why I asked. It did
24 strike me when I read these letters, and I asked Ms. Cabraser
25 about it.



1 If late claims are allowed for both personal
2 injury/wrongful death claims -- pre-closing personal
3 injury/wrongful death claims and economic loss claims, if
4 they're allowed in the Bankruptcy Court, you know, it pays in
5 bankruptcy dollars. And, you know, it may be that there's a
6 substantial dispute in the estimation of what amount they ought
7 to be estimated at, putting that aside for a moment.

8 But there are some real potential benefits to New GM.
9 It'll decide what position you're taking in this Court about
10 it. But that is something that struck me when I first read --
11 I don't know how many months ago, Mr. Steinberg, that letter --
12 I don't know -- I guess it must have been Kirkland because it
13 went to Judge Furman.

14 But I think I even commented about it at a prior
15 hearing that, you know, it was like GM -- New GM doth protest
16 too loudly in this court when they're telling Judge Furman, oh,
17 by the way, if there are late claims in the bankruptcy case,
18 the claims before you, Judge Furman, are gone. But we'll see.

19 MR. KIRPALANI: Yeah. And I agree with that, Your
20 Honor. But the point is, whether we benefit or we suffer,
21 we're economically interested in the outcome and we're a party
22 in this --

23 THE COURT: Oh, I understand the economic interest.
24 Whether that gives you legal standing or not is a different
25 issue.



1 MR. KIRPALANI: Well --

2 THE COURT: But let's talk about the discovery.

3 MR. KIRPALANI: Sure.

4 THE COURT: The briefing is going to be -- we're
5 going to have briefing.

6 MR. KIRPALANI: Sure. Okay. With respect to the
7 discovery, Your Honor, whether or not -- I mean, I understood
8 Your Honor's tentative ruling at the outset not to consider the
9 competing motions at the same time, and obviously we respect
10 Your Honor's ruling on that. In terms of why some of their --
11 maybe some of those issues leaking into the record, however, is
12 that it does go to what was happening in real time.

13 I understand that some parties want the Court to just
14 see kind of one-half of the conversations that were going on or
15 one-half of the emails.

16 THE COURT: But Mr. Steinberg told me that, A, they
17 were cut out of the discussions, that he had a two-hour
18 meeting, and in the course of the two-hour meeting, Wilmington
19 Trust was persuaded not to go forward with the settlement. And
20 Mr. Weisfelner and everyone on the other side of the courtroom
21 is saying what we're saying, Judge, is before that two-hour
22 meeting happened, there was a binding settlement agreement.

23 MR. KIRPALANI: Right. But when Mr. Steinberg
24 started that meeting, the first question out of his mouth was,
25 "Do you have a binding agreement or not?" And it was only on



C E R T I F I C A T I O N

I, Ilene Watson, court-approved transcriber, hereby
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter, and to the best of my ability.



ILENE WATSON, AAERT NO. 447 DATE: October 3, 2017
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